

## SENATE BILL No. 202

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2; IC 22-5-6.

**Synopsis:** Wage payment issues. Provides a procedure for an employer to deduct amounts due to the employer from an employee from unpaid wages due to the employee. Exempts employees who are classified as exempt under the federal Fair Labor Standards Act from the state provisions concerning wage payment. Permits a wage assignment for the payment of uniforms, the payment of tools and equipment, or tuition repayment. Establishes a fee for issuing a replacement payroll check in certain circumstances. Repeals and relocates a provision making it a Class C infraction for an employer to sell merchandise or supplies to an employee for a price higher than the price the merchandise or supplies are sold to the public. Repeals a provision requiring an employer to pay employees in commercial paper. Repeals a duplicate provision concerning frequency of wage payments to employees. Repeals an obsolete provision concerning liens of laborers.

**Effective:** July 1, 2004.

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**Young R Michael**

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January 8, 2004, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-2-5-2 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Except as provided in**  
3 **subsection (b), every ~~such~~ person, firm, corporation, limited liability**  
4 **company, or association who ~~shall fail~~ fails to make payment of wages**  
5 **to any ~~such~~ an employee as provided in section 1 of this chapter shall**  
6 **as liquidated damages for ~~such~~ failure; pay to ~~such~~ the employee for**  
7 **each day that the amount due to ~~him~~ the employee remains unpaid**  
8 **interest at the annual rate of ten percent (10%) ~~of on~~ the amount due**  
9 **to ~~him~~ the employee in addition thereto; not exceeding double the**  
10 **amount of wages due; and said ~~damages~~ to the wages due.**

11       **(b) Upon termination of an employment relationship, the**  
12 **employer shall pay to the employee the unpaid wages minus any**  
13 **amount deducted for amounts applied as due to the employer from**  
14 **the employee, for a purpose related to the employment, as itemized**  
15 **by the employer with the amount due in a written notice**  
16 **accompanying the unpaid wages.**

17       **(c) If the employer fails to provide the written notice in**

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1 conjunction with the unpaid wages, the employee may recover the  
2 amount in disagreement in an action brought under subsection (d).

3 (d) The wages, including any amount in disagreement under  
4 subsection (b), may be recovered in any court having jurisdiction of a  
5 suit to recover the amount due to such the employee, and in any suit so  
6 brought to recover said wages or the liquidated damages for  
7 nonpayment thereof; or both; the court shall tax and assess as costs in  
8 said case a along with reasonable fee for the plaintiff's attorney or  
9 attorneys: attorney's fees.

10 (e) This section does not preclude the employer or employee  
11 from recovering other damages to which either is entitled.

12 SECTION 2. IC 22-2-5-3 IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2004]: Sec. 3. **Employees who are classified**  
14 **as exempt under the Fair Labor Standards Act (29 U.S.C. 201**  
15 **et seq.),** farmers, and those engaged in the business of agriculture and  
16 horticulture shall be specifically exempt from the provisions of this  
17 chapter.

18 SECTION 3. IC 22-2-6-2, AS AMENDED BY P.L.83-2001,  
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2004]: Sec. 2. (a) Any assignment of the wages of an  
21 employee is valid only if all of the following conditions are satisfied:

22 (1) The assignment is:

23 (A) in writing;

24 (B) signed by the employee personally;

25 (C) by its terms revocable at any time by the employee upon  
26 written notice to the employer; and

27 (D) agreed to in writing by the employer.

28 (2) An executed copy of the assignment is delivered to the  
29 employer within ten (10) days after its execution.

30 (3) The assignment is made for a purpose described in subsection  
31 (b).

32 (b) A wage assignment under this section may be made for the  
33 purpose of paying any of the following:

34 (1) Premium on a policy of insurance obtained for the employee  
35 by the employer.

36 (2) Pledge or contribution of the employee to a charitable or  
37 nonprofit organization.

38 (3) Purchase price of bonds or securities, issued or guaranteed by  
39 the United States.

40 (4) Purchase price of shares of stock, or fractional interests  
41 therein, of the employing company, or of a company owning the  
42 majority of the issued and outstanding stock of the employing

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company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3.

**(14) Payment for the purchase or maintenance of uniforms worn by the employee while performing duties for the employer.**

**(15) Payment for the purchase or rental of tools and equipment used by the employee while performing duties for the employer.**

**(16) Payment or repayment of the employee's tuition for:**

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(A) a postsecondary educational institution;

(B) an apprenticeship training program; or

(C) an educational training program;

approved by the employer.

SECTION 4. IC 22-2-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) An employer who deducts the fee described in section 4 of this chapter does not violate this section.

(b) It is unlawful for any employer to assess a fine on any pretext against any employee and retain the same or any part thereof from his the employee's wages.

(c) An employer who violates this section commits a Class C infraction.

SECTION 5. IC 22-2-8-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Notwithstanding section 1 of this chapter, an employer may deduct from an employee's wages a fee computed under subsection (b) to issue a replacement payroll check at the written request of the employee because of theft, destruction, or other loss of the original payroll check after receipt by the employee.

(b) The fee described in subsection (a) is equal to:

(1) the amount charged the employer by a financial institution to stop payment on the original payroll check; plus

(2) the lesser of:

(A) the employer's reasonable costs incurred to reissue the payroll check; or

(B) twenty dollars (\$20).

SECTION 6. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

#### Chapter 6. Employer Sales to Employees

Sec. 1. An employer may not sell to an employee of the employer any:

(1) merchandise; or

(2) supplies;

at a higher price than the employer sells the merchandise or supplies for cash to another person who is not an employee of the employer.

Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction.

SECTION 7. IC 22-2-4 IS REPEALED [EFFECTIVE JULY 1,

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1 2004].  
2 SECTION 8. [EFFECTIVE JULY 1, 2004] **IC 22-2-8-4, as added**  
3 **by this act, applies to wages first payable after June 30, 2004.**

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